

1 Name: Justin Paulo

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8  
**UNITED STATES DISTRICT COURT**  
**DISTRICT OF NEVADA**

11 JUSTIN PAULO, Case No.: 2:19-cv-00474-CDS-NJK

12 Plaintiff,

13 -v- MOTION FOR FINAL JUDGMENT

14 BRIAN WILLIAMS, et al. AS TO COUNT 1 PURSUANT TO

15 Defendant(s). RULE 54(b)

18 COMES NOW the above-named Plaintiff, appearing pro se to  
 19 respectfully request this Court enter a final judgment as to Count 1.  
 20 This motion is based upon the papers and pleadings on file, the  
 21 attached memorandum of points and authorities and any oral  
 22 argument permitted at the hearing of this matter.

1 MEMORANDUM OF POINTS AND AUTHORITIES  
2

3 I. RELEVANT PROCEDURAL HISTORY  
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5 On 9/5/2023 the Court resolved the parties' respective motions for  
6 Summary judgment, ECF No. 121. Relevant to this motion, the Court  
7 GRANTED Defendants' Motion for Summary Judgment ("MSJ") as to  
8 Count 1, which count concerned Plaintiff's claim of inadequate outdoor  
9 exercise constituting deliberate indifference in violation of the Eighth  
10 Amendment, and the Court DENIED Plaintiff's MSJ as to the same  
11 count (Count 1). ECF No. 121, page 7.

12 On 10/11/2023 Plaintiff filed a motion for reconsideration for, inter  
13 alia, Count 1. ECF No. 123.

14  
15 II. STATEMENT OF THE CASE  
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17 This is a 42 U.S.C. § 1983 civil rights action brought by pro se  
18 plaintiff Justin Paulo. The complaint alleges seven causes of action:  
19 1) Eighth Amendment Cruel and Unusual Punishment claim involving  
20 lack of outdoor exercise time; 2) a First Amendment Free Exercise  
21 Claim; 3) a Religious Land Use and Institutionalized Persons Act  
22 ("RLUIPA") claim; 4) a Fourteenth Amendment Equal Protection  
23 Claim; 5) an Establishment Clause claim for denial of the common  
24 fare diet; and 6) two Eighth Amendment Cruel and Unusual  
25 Punishment claims for denial of dental treatment.

1 III. LEGAL STANDARD

2

3 Federal Rule of Civil Procedure 54(b) states:

4

5 "When an action presents more than one  
 6 claim for relief - whether as a claim, counterclaim,  
 7 crossclaim, or third-party claim - or when multiple  
 8 parties are involved, the court may direct entry of  
 9 a final judgment as to one or more, but fewer  
 10 than all, claims or parties only if the court  
 11 expressly determines that there is no just reason  
 12 for delay. Otherwise, any order or other decision,  
 13 however designated, that adjudicates fewer than  
 14 all the claims or the rights and liabilities of  
 15 fewer than all the parties does not end the action  
 16 as to any of the claims or parties and may be  
 17 revised at any time before the entry of a judgment  
 18 adjudicating all the claims and all the parties'  
 19 rights and liabilities."

20

21 IV. LEGAL ARGUMENT

22

23 In the Court's Order, ECF No. 121, adjudicating the parties'  
 24 respective MSJ's, the Court GRANTED the Defendants' MSJ as to  
 25 Count 1, an Eighth Amendment claim relating to inadequate outdoor  
 26 exercise, for Plaintiff's failure to properly exhaust administrative  
 27 remedies under 42 U.S.C. § 1997(e)(a), and GRANTED Plaintiff summary  
 28 judgment on Counts 2 and 3, a Free Exercise and an RLWPA claim.

1 Plaintiff has submitted a motion for reconsideration for, inter alia, the  
2 Court's decision as to Count 1. Plaintiff will be proceeding to trial on  
3 Count 2 for damages against Defendant Calderin. Count 1 has no  
4 relation to Counts 2 and 3.

5 "The broad, underlying purpose of the Federal Rules of Civil Procedure  
6 is to 'secure the just, speedy, and inexpensive determination of every  
7 action and proceeding.'" Williams v. Las Vegas Metro. Police Dep't, 2014  
8 U.S. Dist. LEXIS 162220 (D. Nev. Nov. 14, 2014) (citing Fed. R. Civ. P. 1).

9 "Federal Rule of Civil Procedure 16 authorizes courts to manage their  
10 cases 'so that disposition is expedited, wasteful pretrial activities are  
11 discouraged, the quality of the trial is improved, and settlement is  
12 facilitated.'" Id. (citing In re Phenylpropanolamine Prods. Liab. Litig.,  
13 460 F.3d 1217, 1227 (9th Cir. 2006)).

14

## 15 V. CONCLUSION

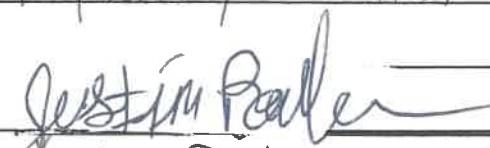
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17 Should the Court deny Plaintiff's motion for reconsideration, ECF No.  
18 123, Plaintiff respectfully requests this Court enter a final,  
19 appealable, judgment on Count 1 pursuant to Fed. R. Civ. P. Rule 54(b).

20

21 Respectfully submitted,

22 Dated: 10/16/23

23   
24 Justin Paulo, pro se

25 ID # 1128387

## NOTICE OF ELECTRONIC FILING

I Justin Pablo certify that on  
10/16/23 I submitted via institutional mail / direct delivery  
to HDSP Law Library, a true and correct copy of the foregoing document  
entitled: Motion for Final Judgment as to Count 1  
Pursuant to Rule 54(b)

To the High Desert State Prison Law Library electronic filing department;  
to be electronically filed with the United States District Court, District of  
Nevada. I being a Pro-se incarcerated litigant request the court apply the  
“mailbox rule,” as it pertains to the filing of this document, see Douglas v.  
Noelle, 567 F.3d 1103, 1106-07 (9<sup>th</sup> Cir 2009); Faile v. Upjohn Co., 988 F.2d  
985, 988 (9<sup>th</sup> Cir 1993); Jones v. Blanas 393 F.3d 918, 926 (9<sup>th</sup> Cir 2004).

DATED: 10/16/23

x 

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